

SB 829 Testimony (Budget and Tax) (1).pdf

Uploaded by: Antonio Hayes

Position: FAV

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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Wednesday February 26, 2025

**Testimony in Support of SB 829 - State Procurement - Minority Business Enterprise
Program - Extension and Reports**

Dear Guzzone and Members of the Budget and Tax Committee,

I am writing to express my strong support for Senate Bill 829, which seeks to extend the deadline for the submission of the 2021 Statewide Disparity Study and the Minority Business Enterprise (MBE) Program. The Disparity Study serves as a critical tool for assessing racial and gender disparities in state contracting, ensuring that Maryland's policies remain both legally sound and effective in promoting equitable economic opportunity.

Maryland's Disparity Study is required to meet the constitutional strict scrutiny standard established by the U.S. Supreme Court in *City of Richmond v. J.A. Croson Co.* This means that any state program using race-conscious classifications, like the MBE Program, must demonstrate both a compelling interest in remedying discrimination and that the measures used are narrowly tailored to address those disparities. The Disparity Study provides the evidentiary basis for these policies.

The current study, conducted by MGT of America Consulting, LLC, is broader in scope than any previous iteration, spanning seven fiscal years (FY15–FY21) and incorporating analyses of key industries, including Offshore Wind, Public-Private Partnerships, Gaming, Cannabis, and Capital

Grants. However, due to necessary delays—including a temporary pause to prioritize the adult-use cannabis market analysis—the study’s completion has been pushed to Fall 2025.

At present, 91% of the required subcontractor data has been collected, representing \$22.9 billion in state spending, but additional time is required to finalize the data collection and analysis. Without an extension, Maryland risks allowing the MBE Program to expire before the General Assembly has had the opportunity to review the study and make informed policy decisions.

This extension is essential to maintaining the integrity of Maryland’s commitment to economic equity. I urge you to support Senate Bill 829 to ensure that we have the necessary foundation to continue addressing disparities in state contracting.

Thank you for your consideration.

Respectfully,



Senator Antonio L. Hayes
40th Legislative District – MD

SB0829_GOSBA_FAV (Final).pdf

Uploaded by: Davon Gardner

Position: FAV



GOVERNOR'S OFFICE OF
SMALL, MINORITY & WOMEN
BUSINESS AFFAIRS

Governor Wes Moore

Lt. Governor Aruna Miller

DATE: February 24, 2025
BILL NUMBER: SB 829
COMMITTEE: Senate Budget and Taxation Committee
BILL TITLE: State Procurement – Minority Business Enterprise Program – Extension and Reports

GOSBA POSITION: **FAVORABLE**

Dear Chairman Guzzone and Members of the Committee:

The Governor's Office of Small, Minority & Women Business Affairs (GOSBA) would like to thank the Committee for the opportunity to provide written support for Senate Bill 829 (SB 829). SB 829 alters the provisions of law governing the Minority Business Enterprise (MBE) Program and its application to offshore wind projects and video lottery terminals. Additionally, the proposed legislation amends the date by which certain reports, studies, and guidelines must be submitted in reference to the MBE Program.

Maryland's Disparity Study is a Statewide econometrics analysis conducted approximately every five years. The overall purpose of the Study is to determine whether there is racial and/or gender discrimination in the markets in which the State does business – both in public and private sectors.

If the resulting analysis determines that statistically significant disparities exist, those findings serve as the evidentiary basis and underpinning for the State's use of race-conscious remedies to mitigate said disparities. The State's most significant remedy is through our key socio-economic procurement program: the MBE Program.

GOSBA oversees each of the socioeconomic procurement programs across 70+ state agencies, playing a key role in the MBE, Small Business Reserve (SBR), and the Veteran-Owned Small Business Enterprise (VSBE) programs. Increasing opportunities for Maryland business owners within these programs has been instrumental in promoting economic stability, particularly in the MBE, SBR, and VSBE communities.

GOSBA believes the MBE Program extension would allow Maryland to continue to be more efficient, equitable, and competitive.

GOSBA is pleased to offer this Letter of Support for SB 829 and happy to engage in further discussions regarding the bill.

Davon K. Gardner
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SB0829 -MBE - LOS - State Procurement - Minority

Uploaded by: Patricia Westervelt

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February 26, 2025

The Honorable Guy Guzzone
Chair, Senate Budget & Taxation Committee
3 West Miller Senate Office Building
Annapolis, MD 21401

RE: Letter of Support – Senate Bill 829 – State Procurement – Minority Business Enterprise Program – Extensions and Reports

Dear Chair Guzzone and Committee Members:

The Maryland Department of Transportation (MDOT) supports Senate Bill 829, as it would allow for the continuation of the State’s Minority Business Enterprise (MBE) Program past its current sunset date of July 2025 and extends the application of the Program to several unique industries. In addition, the bill extends the due dates by which certain reports, studies, and guidelines related to the Program must be submitted, including the due date for the Statewide Disparity Study that provides the legal foundation for implementation of the Program.

Every aspect of the of the MBE Program, including State statutory and regulatory requirements, is controlled by the United States Constitution and Supreme Court precedent. The 1989 Supreme Court decision in *Croson* established that government programs that use race-based classifications are subject to strict scrutiny as they could, on their face, violate the Equal Protection Clause of the 14th Amendment. A rigorous and defensible Disparity Study is how the state satisfies this constitutional test.

Maryland’s Disparity Study examines whether and to what extent there is racial or gender business discrimination in the markets in which the State does business – both public and private sectors. If the resulting analysis determines that statistically significant disparities exist, that finding serves as the evidentiary basis for the State’s use of race-conscious remedies to mitigate said disparities. The process for completing the Statewide study involves collecting and analyzing extensive data regarding the availability and utilization of firms as well other market indicators, such as access to capital or business loans and business formation rates.

As the Certifying Agency of the State’s MBE Program, MDOT initiated a Statewide availability and utilization study with an eye toward delivering a final report to the Legislative Policy Committee of the General Assembly. The Statewide study is of unprecedented size and scope. This, coupled with a temporary pause on work to accommodate the completion of a standalone and expedited Adult-Use Cannabis Disparity Study, resulted in series of delays. In addition, the data collection effort and analysis has taken longer than anticipated, mostly due to the collection of subcontractor data from prime vendors who are more skeptical of email and virtual data collection efforts post-COVID. A final draft of the study and the report is now anticipated to be delivered by September 30, 2025. MDOT is confident that the study and corresponding report

The Honorable Guy Guzzone
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can be delivered by the requested September 30, 2025, extension date, at no additional cost or resources to the State.

In the interim, the extension of the due date outlined in SB 829 for the report on the study, as well as concurrent extensions of the sunset dates for the MBE Program and various related industries and fringe analyses, will allow the MBE Program to remain operational. This represents a benefit to the Maryland business community and the State's economy at large.

For these reasons, the Maryland Department of Transportation respectfully requests the Committee grant Senate Bill 829 a favorable report.

Respectfully Submitted,

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